

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

: Plaintiff,

: Case No. 3:08cr037
vs. and 3:11cv219

BUTCH R. DIXON,

: JUDGE WALTER HERBERT RICE

: Defendant.

DECISION AND ENTRY ADOPTING INITIAL (DOC. #74) AND SUPPLEMENTAL (DOC. #77) REPORTS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE; PLAINTIFF'S OBJECTIONS TO SAID JUDICIAL FILINGS (DOC. #76 AND #79) OVERRULED; PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE AND SPECIFIC FINDINGS OF FACT (DOC. #76) OVERRULED; JUDGMENT TO ENTER IN FAVOR OF PLAINTIFF AND AGAINST DEFENDANT, DISMISSING THE DEFENDANT'S MOTION TO VACATE, ETC., PURSUANT TO 28 U.S.C. § 2255; CERTIFICATE OF APPEALABILITY AND ANTICIPATED REQUEST FOR LEAVE TO APPEAL *IN FORMA PAUPERIS* OVERRULED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in his Initial (Doc. #74) and Supplemental (Doc. #77) Reports and Recommendations, as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Reports and Recommendations are adopted in their entirety. Defendant's Objections to said judicial filings (Doc. #76-2 and 79)

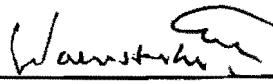
are overruled. The Defendant's request for judicial notice and specific findings of fact (Doc. #76-1) is overruled.

Judgment will be ordered entered in favor of the Government and against Defendant herein, dismissing the Defendant's Motion to Vacate, etc., filed pursuant to 28 U.S.C. § 2255, with prejudice, given that his claims are without merit and, in the case of the faulty Indictment claims, procedurally defaulted.

Because Defendant has not made a substantial showing of the denial of a constitutional right and, further, because reasonable jurists would not disagree with this opinion, Defendant is denied a certificate of appealability. Finally, given that any appeal from this Court's decision would be objectively frivolous, this Court denies any anticipated motion for leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

September 21, 2011


WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record